

FINAL TEXT OF PROPOSED REGULATIONS

In the following text, strikethrough indicates deleted text; underlining indicates added or amended text.

Section 3130 is amended to read:

3130. General Policy.

The California Department of Corrections and Rehabilitation (CDCR) encourages correspondence between inmates and persons outside the correctional facilities. The sending and receiving of mail by inmates shall ~~will~~ be uninhibited except as specifically provided for in this article. ~~The privacy of correspondence between inmates and persons outside correctional facilities shall not be invaded except as may be necessary to prevent physical injury to persons and to maintain the security of correctional facilities and the community.~~ The Regulations contained in this article shall provide for the orderly processing of inmate mail and to give direction to staff, inmates, and their correspondents concerning facility mail requirements. Mail shall be delivered to inmates, regardless of housing, unless it is contraband pursuant to section 3006, or is disturbing or Offensive Correspondence pursuant to section 3135.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2600, 2601(d), 5054, Penal Code. *Procunier v. Martinez*, 416 U.S. 396.

Section 3131 is amended to read:

3131. Plan of Operation

Each warden, ~~superintendent~~ and or heads of a ~~correctional facilities~~ shall prepare and maintain a plan of operations for the sending and receiving of mail for all inmates housed in the facility. ~~This plan will require the director's approval before~~

~~implementation and before any revision is made to an approved plan.~~ Procedures of the correctional facility shall conform to the policies, regulations and the provisions of law made reference to and shall apply to all inmates of the facility. Correctional staff shall promptly inform each newly received inmate of all department regulations and local procedures governing inmate mail.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 2080, Penal Code, and *Procunier v. Martinez*, 416 U.S. 396.

Section 3132 is amended to read:

3132. Responsibility and Compliance.

(a) Correspondents are personally responsible for the content of each item of mail they send into or out of a correctional facility. All persons corresponding with inmates must comply with existing laws, regulations and local rules. Any violation of laws governing mail will be referred to postal authorities and to appropriate criminal authorities. Violations of law, the policies and regulations set forth in this article, or of approved facility mail procedures may result in the temporary suspension or denial of correspondence between the persons involved.

(b) Departmental employees, inmates and persons corresponding with inmates must comply with the regulations set forth in this article and with approved facility mail procedures. Failure to do so may result in legal or administrative measures against the person or persons involved.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 2930, 5054, 5058, Penal Code, and *Procunier v. Martinez*, 416 U.S. 396.

Existing Section 3133 is deleted.

3133 Number of Correspondents

~~(a) Except as set forth in Sections 3139, 3140 and 3147 of this article, there shall be no limitations placed upon the number of persons with whom an inmate may correspond nor upon the number, location or current status of inmates with whom an inmate may correspond.~~

New section 3133 is relocated and renumbered from existing section 3147, and is amended in its entirety:

31473133. Definitions and Disposition of Mail.

~~(a) All incoming and outgoing mail shall be handled in accordance with the following:~~

~~(1) Definition of Classes of Mail. U.S. Postal regulations define first class mail as any handwritten or typewritten matter sealed in an envelope that has to be acted upon by the recipient; second class mail as any daily or weekly publication; third class mail as any matter that weighs up to a pound and not of a first class nature, e.g., advertising, mass mailings, etc.; and fourth class mail as printed matter, e.g., catalogs, brochures, etc.~~

~~(2) Address. All outgoing mail must be properly addressed, using the appropriate zip code and shall be marked indicating that it originated from a California state correctional facility.~~

~~(3) Return Address. Outgoing inmate mail must contain a return address on the outside of the letter or package. It will include the inmate's name, the address designated by the facility for inmate mail, and the inmate's register number or prison identification. If the inmate sender's name appears on the outgoing mail, but the return address is incorrect~~

~~or incomplete, the mail will be returned to the sender. If the sender's identity cannot be determined by other means the mail will be opened and inspected for that purpose.~~

~~(4) Returned Mail. All undelivered letters and packages returned to a facility by the post office will be opened and inspected before returning to the inmate. The purpose of this inspection will be to determine if the content originated with the inmate sender identified on the letter or package, and to prevent the transmission of material, substances, and property which an inmate is not permitted to possess in the correctional facility. The inspection of returned mail will include regular mail, which the inmate may have been authorized to seal before mailing, and letters, which were mailed as confidential correspondence. In the case of returned confidential correspondence the envelope shall be opened in the presence of the inmate and examined and read to the degree necessary to determine if it was sent out by the inmate and that it was not opened or tampered with before its return to the facility. Upon completion of this examination the returned correspondence shall be given to the inmate.~~

~~(5) Withheld/Disallowed Mail. First class mail addressed to an inmate, any publication, package, or an enclosure in otherwise acceptable first class mail, which is specifically prohibited by the provisions of this article or by facility mail procedures, may be disposed of as provided in subsection (B) without holding the item of mail pending appeal but with notice as required in subsections (A) and (B). When mail is withheld, based upon a judgmental or interpretive decision of staff, it shall be retained by the facility for not less than 15 days pending actions listed in (A) below.~~

~~(A) The inmate and will be promptly informed in writing of the reason the mail is being disallowed; the disposition to be made of the mail; the name of the official disallowing~~

~~the mail; and, the name of the official to whom an appeal may be directed. The notice to the inmate shall include the name and date of the publication, or the name and address of the sender, and shall inform the inmate of the disposition that shall be made, if an appeal is not submitted to the named official within 15 days of the date of the notice.~~

~~(B) Incoming mail disallowed under the provisions of this article, under facility procedures, or pursuant to an appeal, shall be destroyed or mailed at the inmate's expense to an approved outside correspondent. The undelivered mail shall be destroyed 15 days after the notification of undelivered mail is forwarded to the inmate unless the inmate designates who is to receive the mail and authorizes withdrawal from their trust account to pay for the expense of mailing, or as authorized by the institution head, provides sufficient postage stamps already in the inmate's possession.~~

~~(6) Stopped Mail. If for any reason set forth in this article or in approved facility mail procedures any first or second class mail is not accepted for mailing for an inmate or is accepted for mailing but is not promptly mailed, the inmate will be notified in writing of the reason for refusal to accept or to promptly mail the items. The notice will include the disposition to be made of any such mail in the possession of department employees. Unless the retention of such mail is required in legal or disciplinary proceedings against the inmate it will be promptly mailed or returned to the inmate.~~

~~(7) Mail Retention in Central File. No original, copy, excerpt or summary of mail to or from an inmate will be made or placed in an inmate's central file unless it is or has been the subject of a legal or disciplinary action, investigation, casework determination, or action affecting the inmate. Exceptions may be made when an inmate requests that a copy be placed in his or her central file and the inmate's caseworker deems it~~

~~appropriate to do so; or, when the receiver of disturbing or offensive mail has returned an inmate's letter(s) to the facility requesting administrative action as spoken to in section 3135.~~

~~(8) Forwarding Mail. Mail received for an inmate who has been transferred from the facility where the mail is received will be immediately forwarded to the facility, administrative office or agency to whom the inmate's custody has been relinquished, except as otherwise stated in this section.~~

~~(A) Temporary Absence. Mail will be held for an inmate who is temporarily away from the facility when the inmate's return is anticipated within one week.~~

~~(B) Address Unknown. Mail addressed to an inmate who has been transferred or released, will not be returned to the sender as "addressee unknown" unless the individual has been discharged from department jurisdiction.~~

~~(C) Means of Forwarding. First class mail will be forwarded directly via the U.S. Postal Service. Second class mail will also be forwarded via the U.S. Postal Service for inmates who are no longer confined in facilities of the department. Second and third class mail for inmates confined in facilities of the department will be forwarded via intradepartmental mail. Periodicals will be forwarded for only 60 days. Daily newspapers will not be forwarded. Unforwarded periodicals and newspapers may be made available to the general inmate population.~~

~~(D) Length of Forwarding. Less than first class mail will not be forwarded after 60 days from the date of the inmate's transfer or release from an institution, but will be returned to the sender or be disposed of as indicated in subsection (C). First class mail will~~

~~continue to be forwarded as long as the addressee remains under the jurisdiction of the department, or their address is known or can be determined.~~

~~(E) Change of Address. Change of address notice cards will be issued upon request to inmates who are scheduled for transfer or release or who are new arrivals at the facility. Inmates are responsible for notifying their correspondents and the publishers of their subscriptions of any change of address.~~

~~(F) Newspapers. Daily newspapers will not be forwarded nor will they be held for an inmate who is temporarily away from the facility for longer than 72 hours. Exceptions will be made when the absence results from the inmate's participation in department or facility approved activities such as community release program, firefighting or other disaster control assignments.~~

(a) Definitions:

(1) First-Class Mail is all mail wholly or partly in writing or typewriting, all actual and personal correspondence, all bills and statements of account, and all matter sealed or otherwise closed against inspection. The maximum weight for a First-Class letter is 13 ounces. All First-Class Mail shall be delivered to the inmate as soon as possible, but not later than seven calendar days from receipt of the mail at the facility mailroom.

(2) Standard Mail, formerly called Bulk Mail, is used for advertising mail, catalogues, and newsletters of a non-personal nature that are not required to be mailed as First-Class Mail. The maximum weight for Standard Mail is 16 ounces.

(3) Periodicals are a class of mail consisting of magazines, newspapers or other publications formed of printed sheets that are published at least four times a year at regular, specified intervals from a known office of publication. The known office of

publication must be a public office for transacting the business of the publication during normal business hours, and must also be the office where the publication's circulation records are available for USPS examination.

(4) Package Services are Parcel Post, bound Printed Matter, Media Mail, and Library Mail. With the exception of parole clothes and third party special purchase health appliances, inmates shall not be allowed to receive package services directly from personal correspondents. Packages containing parole clothes or third party special purchase health care appliances must be clearly marked with either "Parole Clothes" or "Health Care Appliance" on the outside of the package. Personal correspondents do not include the Courts, Law Firms, County, State and Federal Agencies, Publishers, Bookstores, Book Distributors, Religious Organizations that provide written materials only, etc.

(5) For purposes of this article, the definition of indigent inmate is an inmate who has \$1.00 or less in their Inmate Trust Account for 30 consecutive days.

(b) All incoming and outgoing mail shall be handled in accordance with the following:

(1) All incoming mail shall be properly addressed. Appropriately addressed mail shall include the inmate's name and department identification number. The mail should also include the address designated by the institution for inmate mail. The receiving institution is required to update any mail piece that does not reflect accurate housing or institutional location. Standard Mail must be addressed to an individual inmate, showing their name, CDCR number and the address for the applicable institution.

(2) All outgoing mail shall be properly addressed, and shall be marked indicating that it originated from a California State Correctional Facility. If addressed to an inmate, it

must contain the sender's name, department identification number and the return address designated by the institution for inmate mail, including housing. It shall also contain the recipient's name, address, city, state, and zip code.

(3) All incoming packages and non-confidential mail addressed to an inmate will be opened and inspected before delivery to the inmate. The purpose of inspection will be to receive or receipt any funds enclosed for deposit to the inmate's trust account, to verify and record the receipt of permitted personal property, and to prevent the introduction of contraband. All non-confidential inmate mail, incoming or outgoing, is subject to being read in its entirety by designated staff. All non-confidential inmate mail that is "returned to sender" shall be opened and inspected before being returned to the inmate.

(4) Facilities shall not require incoming books, magazines or newspapers to have an institution pre-approved "vendor approved" label affixed to the packaging. A departmentally approved vendor is any publisher, book store, or book distributor, that does mail order business. Books, periodicals or other publications that are mailed from a religious organization shall be considered as coming from an authorized vendor.

(c) Confidential Mail with Inmate Trust Account Withdrawals. Inmate confidential mail submitted with a CDC Form 193, Inmate Trust Withdrawal (Rev. 1/88), to pay for filing fees or other costs may be left unsealed so that the voucher (check) can be enclosed after the trust account withdrawal has been processed. Inmates who do not wish to forward this type of mail unsealed should attach a stamped, appropriately addressed envelope to the confidential mail so the check can be enclosed and forwarded in the extra envelope.

(d) Undelivered Mail. All undelivered letters and packages returned to a facility by the post office shall be opened and inspected before being returned to the inmate. This inspection is to determine if the content originated with the inmate sender identified on the letter or package, and to prevent the transmission of contraband, material, substances, and property that an inmate is not authorized to possess in the correctional facility. The inspection of returned mail includes regular mail and letters that were mailed as confidential correspondence. In the case of returned confidential correspondence, the envelope shall be opened in the presence of the inmate. It shall be examined and read to the degree necessary to determine if it was sent by the inmate and opened or tampered with before its return to the facility. Upon completion of this examination, the returned correspondence shall be given to the inmate. Any contraband found in the returned correspondence shall be confiscated and processed, and appropriate disciplinary action taken.

(e) Unmailed Correspondence. If any First-Class Mail is not accepted for mailing, or is accepted for mailing but is not properly mailed, the inmate shall be notified in writing of the reason for refusal to accept or to promptly mail the item(s). When the delay in mailing exceeds 5 business days, the notice shall be sent and include the disposition of such mail. Unless retention of such mail is required in administrative, legal, or disciplinary proceedings against the inmate or other persons, it shall be promptly mailed or returned to the inmate.

(f) Forwarding Mail. Mail received for an inmate who has been transferred from the facility where the mail is received shall be immediately forwarded to the facility or agency that has current custody of the inmate. Mail addressed to an inmate who has

been transferred or released shall not be returned to the sender as “Addressee Unknown” unless the individual has been discharged from CDCR. First-Class Mail and Periodicals addressed to an inmate who has been transferred within the CDCR shall have a label affixed with the current address and shall be forwarded via the USPS. For inmates who have paroled, the affixed label shall state “Paroled Region # ”, and shall show that Parole Regions’ address. Standard Mail with a “Mailer Endorsement” that was appropriately addressed, but is undeliverable because the inmate is no longer housed at the facility, shall be returned to the USPS for processing. Mailroom staff shall affix a label to the Standard Mail piece showing the correct address before returning it to the USPS for processing. For inmates who have paroled, the label affixed to the Standard Mail piece shall state “Paroled Region # ” and shall show that Parole Regions’ address. The Mailer Endorsement will appear either near the address block or below the return address in the top left corner of the mail piece. A Mailer Endorsement may read “Address Service Requested”, or “Forwarding Service Requested”, or “Change Service Requested”, or “Return Service Requested”. Staff may dispose of any Standard Mail piece that does not have a Mailer Endorsement, and is undeliverable because the inmate is not currently housed at the institution. Daily newspapers that are delivered by courier will not be forwarded nor will they be held for an inmate who is temporarily away from the facility for longer than 72 hours. Exceptions will be made when the absence results from the inmate’s participation in facility approved activities such as a community release program, firefighting or other disaster control assignments. Newspapers that are delivered by the USPS will have a forwarding address affixed and shall be returned to the USPS for processing.

(g) Forwarding Confidential Correspondence. All confidential correspondence for inmates that must be forwarded will be done on a daily basis. If delivery of confidential correspondence from the courts is impeded because the addressee's name and CDCR number do not conform to each other, the mailroom will contact the Litigation Coordinator who will telephone the court to clarify the identification of the addressee in order to expedite delivery of confidential correspondence. Staff will document their efforts to identify the addressee when confidential correspondence from the courts cannot be delivered.

(h) Temporary Absence. Mail shall be held for an inmate who is temporarily away from the facility when the inmate's return is anticipated within one week.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 4570, Penal Code; *Procurier v. Martinez*, 416 U.S. 396; and *Bell v. Wolffish*, 99 S. Ct. 1861.

Existing Section 3134 is relocated and renumbered to Section 3138.

New Section 3134 is relocated from existing Section 3138, and amended in its entirety:

31384. Indigent Inmates General Mail Regulations.

~~(a) All nonconfidential inmate mail is subject to being read in its entirety or in part by designated employees of the facility before it is mailed for or delivered to an inmate. The institutional head or designee may reject mail sent by or to an inmate as provided in section 3136.~~

~~(b) All incoming packages and mail addressed to an inmate will be opened and inspected before delivery to the inmate. The purpose of inspection will be to receive or~~

~~receipt any funds enclosed for deposit to the inmate's trust account; to verify and record the receipt of permitted personal property; and to prevent the introduction of contraband.~~

~~(c) Outgoing inmate mail shall be inspected in accordance with local procedures.~~

~~(1) All outgoing packages will undergo inspection by appropriate employees before the package is sealed and mailed.~~

~~(2) No collect-on-delivery packages or letters of any kind will be accepted for an inmate.~~

~~(d) Packages.~~

~~(1) Facilities will make available to all inmates procedures for the receipt of packages from their correspondents via departmentally approved vendors in accordance with limits set for their assigned inmate work/training incentive group. A facility may refuse to deliver the package if the inmate is not qualified to receive the package, and dispose of the package as provided in subsection 3147(a)(5) without the need to hold the package pending appeal as provided in subsection 3147(a)(5)(B). If the package is in excess of the 30-pound limit, or is damaged, the package shall be returned to the vendor at the vendor's expense.~~

~~(2) Facilities will establish and make available to all inmates procedures for shipping packages to their correspondents.~~

~~(e) Enclosed Funds. Funds may be mailed to an inmate by money orders, certified or personal checks, or any other negotiable means except cash. Funds received in the form of a personal check will not be released for spending by the inmate until the check has cleared the named bank.~~

~~(f) Publications.~~

~~(1) Publications are reproduced, handwritten, typed/printed, and/or pictorial materials including books, periodicals, newspapers, and pamphlets. Inmates may subscribe to newspapers, periodicals, and purchase softcover books. All publications shall be sent directly from a publisher or book store which does mail order business, with the exception of donations which are not otherwise prohibited. Any exceptions must be authorized by the institution head.~~

~~(2) Publications must be addressed to an individual inmate except for donations to the institution as otherwise permitted by these regulations and local procedures.~~

~~(3) A publication received through the U.S. mail from the publisher or book store shall be excluded for the reasons stated in Section 3006(c).~~

~~(4) Nothing in this section shall be construed as limiting a facility's right to inspect nonconfidential material and to limit the number of publications an inmate may possess at one time.~~

~~(g) Contests. Inmates may not participate in any contest advertised in or sponsored by the media when a financial obligation is involved, or when such participation will result in an expense to the facility beyond the routine cost of processing mail. Exceptions may be individually approved by the warden.~~

(a) First-Class Mail can have the following items enclosed, including but not limited to:

(1) Photographs, with the exception of photographs with attached backing, framed photographs that cannot be searched, Polaroid's, negatives, and slides.

(2) Calendars.

(3) Blank greeting cards (No 3-dimensional attachments or stamps).

(4) Postage embossed envelopes, up to forty.

(5) Blank envelopes.

(6) Writing paper/tablets (white or yellow lined only – no cotton paper).

(7) Typing paper (no cotton paper).

(8) Legal paper, to include colored paper required by court rules (no cotton paper).

(9) Children's drawings.

(10) Newspaper clippings, Internet downloaded articles, photocopies of clippings/articles, or electronic mail (e-mail). Prior to issuance they shall be reviewed to ensure that they comply with sections 3006 and 3135.

(11) Forty postage stamps. If there is a rate change, then forty stamps at the old rate, and 40 stamps at the amount needed to equal the new rate. No personalized postage stamps will be allowed.

The weight limit for First-Class Mail is 13 ounces, and for Standard Mail is 16 ounces. Photo albums can be obtained by the inmate from the canteen and the Vendor Package Program. Any unacceptable mail shall be immediately returned to the sender with the envelope annotated "Unauthorized Mail, Return to Sender". Inmates shall be noticed pursuant to section 3136.

(b) Metered Envelopes. Metered reply envelopes sent in with correspondence must adhere to the following conditions:

(1) The postage amount must be enough to prepay the postage in full.

(2) Indicia may be printed directly on the mail piece or on a label and must be positioned appropriately.

(3) Indicia used to prepay reply postage must not show the date.

(4) The words "NO POSTAGE STAMP NECESSARY POSTAGE HAS BEEN PREPAID BY" must be printed above the address.

(c) Inspection of Incoming and Outgoing Packages will occur as follows:

(1) Facilities will establish and make available to all inmates procedures for shipping packages to their correspondents.

(2) Facilities will make available to all inmates local procedures for the receipt of packages from their correspondents in accordance with limits set for their assigned inmate work/training incentive group. A facility may refuse to deliver the package if the inmate is not qualified to receive it. If the package is in excess of the 30-pound limit, or is damaged, the package shall be returned to the vendor at the vendor's expense.

(3) All incoming packages addressed to an inmate shall be opened and inspected in the presence of the inmate. The contents of the package are inspected to record authorized personal property, and to prevent the introduction of contraband.

(4) Delivery by staff of packages, special purchases, and all publications, shall be completed as soon as possible but not later than 15 calendar days, except during holiday seasons such as Christmas, Easter, and Thanksgiving, and during lockdowns of affected inmates.

(5) All packages shall be processed and issued from a designated distribution area. All outgoing packages shall be inspected for contraband prior to being sealed and mailed.

(d) Contests. Inmates shall not participate in any contest when a financial obligation is involved or when such participation shall result in expense to the facility beyond the cost of processing mail. If lottery tickets, lottery scratchers, or other contest materials, are

discovered in incoming mail, the entire envelope and its contents shall be returned to sender with a pre-printed notice to the sender which states: "Unauthorized item".

(e) Inmate Manuscripts. Manuscripts include, but are not limited to, written, typed or printed articles of fiction and nonfiction, poems, essays, gags, plays, skits, paintings, sketches, drawings, or musical compositions created by an inmate. Any manuscript remains the property of the inmate who created it. It may be retained in the inmate's possession, unless it violates sections 3006 or 3135. If unauthorized state materials have been used in the creation of a manuscript, the item shall be confiscated pending disciplinary action and reimbursement by the inmate for the state materials. Incoming and outgoing manuscripts shall be processed as regular mail in accordance with the provisions of this article.

(f) There shall be no limitations placed on the number of persons with whom an inmate may correspond.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601, 4570, Penal Code; *Procunier v. Martinez*, 416 U.S. 396; and *Bell v. Wolfish*, 99 S. Ct. 1861.

New Subsection 3134.1 has been relocated from proposed text 3134(f) through (i), and is renumbered and amended in its entirety.

3134.1 Processing of Publications

(a) Publications. Inmates may subscribe to, purchase, or have items sent in to them such as newspapers, periodicals, magazines or books. If subscriptions or books are purchased for the inmate by a third party or donated to an inmate, they must be mailed directly from a book store, book distributor, or publisher. Personal correspondents

cannot mail books, periodicals, or other publications directly to inmates and state that they are a donation. There shall be no "Approved Vendor Lists" for any publications.

(b) Processing and Inspection of Incoming Magazines and Newspapers. All magazines and newspapers shall be inspected prior to issuance to ensure that they comply with sections 3006, 3134, and 3135. Attached free CD's and packaged samples of perfume, lotion, moisturizers, stickers, or any item deemed to be contraband, contained in magazines shall be removed; notification of such to the inmate is not required. No other items shall be removed from a magazine or other publication in order to issue it to an inmate.

(c) Processing and Inspection of Incoming Books. All incoming paperback and hardback books and any enclosures within them shall be inspected prior to issuance to ensure they comply with sections 3006, 3134, and 3135. For hardback books staff shall allow the inmate to determine whether to accept the book with the cover removed or, if that option is declined, decide how the book is to be disposed of per section 3191(c). If the inmate chooses to accept the book, staff shall insure the book does not violate any other departmental regulation, and then shall remove the entire cover in front of the inmate. Should such removal render the book unstable, staff shall take measures to ensure the book remains intact.

(d) Notification to Publisher for Disapproval of Publication. When incoming books, magazines, or publications to an inmate are withheld or disallowed, a letter shall be sent by the institution to the publisher explaining why the item was denied. A book, magazine, or publication denied to an inmate(s) based on a violation of departmental regulation or policy, and that has not previously been included on a centralized list of

banned publications pursuant to subsection 3134.1(e), shall only require one notification letter per institution to be sent to the publisher. At a minimum the letter must include the reason why the book, magazine, or publication was denied, the names and CDCR number for all inmates, the applicable CCR section that the publication violates, and a notice to the Publisher of their right to appeal per section 3137(c). The letter must be sent within 15 calendar days of the determination to disallow the book, magazine or publication, with a copy of the notification letter and supporting documents to be retained by the facility for a minimum of seven years. The institution shall also notice the Division of Adult Institutions to request inclusion of the disallowed publication on the centralized list of banned publications. When incoming or outgoing publications addressed to or being sent by an inmate are withheld or disallowed, the inmate shall be informed via CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications (Rev.-6/98) of the reason, disposition, name of official disallowing the publication, and the name of the official to whom an appeal can be directed.

(e) Centralized List Of Disapproved Publications. The Division of Adult Institutions shall distribute to each institution a centralized list of disapproved publications that are prohibited as contraband. Examples of publications that would be included on the centralized list would include, but not be limited to, publications that contain sexual content or nudity, warfare or weaponry, bomb making instructions, etc. Publications that are enumerated on this centralized list are not allowed in any institution. Local institutions may not add items to the centralized list. When a publication is placed on the centralized list, the Division of Adult Institutions shall send a letter to the publisher explaining why the publication was excluded. At a minimum, the letter must include the

reason why the publication is excluded, the applicable CCR section that the publication violates, and a notice to the Publisher of its right to appeal per CCR subsection 3137(c). The letter must be sent within 15 calendar days of the determination to disapprove the publication, with a copy of the notification letter and supporting documents to be retained by the facility for a minimum of seven years.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601, 4570, Penal Code; *Procunier v. Martinez*, 416 U.S. 396; and *Bell v. Wolffish*, 99 S. Ct. 1861.

Section 3135 is amended to read:

3135. Disturbing or Offensive Correspondence.

(a) ~~Nonconfidential correspondence will be read by staff as described in section 3138. Non-confidential correspondence may be disallowed if the text of such correspondence presents a danger, or a threat of danger, to any person. Exceptions to disallowing such correspondence may be made under extremely unusual circumstances and with the prior approval of the warden or superintendent. The authority to disallow such correspondence will~~ shall ~~not be delegated below the staff level of~~ Correctional/Facility Captain ~~facility or correctional captain. In all such cases the reasons for withholding or delaying such mail will be fully documented and the disposition of the mail noted.~~

(b) Disagreement with the sender's or receiver's ~~apparent~~ morals, values, attitudes, veracity, or choice of words will not be cause for ~~used by~~ correctional staff to disallow mail as a reason for disallowing or delaying mail. Correctional staff shall not challenge or confront the sender or receiver with such value judgments ~~nor shall such value~~

~~judgments be considered in any action affecting the correspondents except as described in subsection (c).~~

(c) Certain correspondence, including but not limited to the following, is disallowed, regardless of values or morals, in order to ensure the safety and security of the institution/facility:

(1) Any mail of a character tending to incite murder, arson, a riot, or any form of violence or physical harm to any person, or any ethnic, gender, racial, religious, or other group.

(2) Threatens blackmail or extortion.

(3) Contraband, or sending or receiving contraband.

(4) Concerns plans to escape or assist in an escape.

(5) Concerns plans to disrupt the order, or breach the security, of any institution/facility.

(6) Concerns plans for activities which violate the law, these regulations or local procedures.

(7) Contains coded messages.

(8) Describes the making of any weapon, explosive, poison, or destructive device.

(9) Contains illustrations, explanations, and/or descriptions of how to sabotage or disrupt computers, communications, or electronics.

(10) Contains maps depicting any area within a ten-mile radius of an institution/facility.

(11) Contains gambling or lottery information or paraphernalia.

(12) Contains material obscene in nature.

(13) Contains human or animal hair, substances, or fluids.

(d) Inmates shall not possess or have under their control obscene material and/or mail containing information concerning where, how, or from whom obscene material may be

obtained. Obscene material means catalogs, advertisements, brochures, and/or material taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest. It is material which taken as a whole, depicts or describes sexual conduct, and lacks serious literary, artistic, political, or scientific value. Additionally, material is considered obscene when it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it appeals to deviant sexual groups. Material subject to the test of the above includes, but is not limited to:

(1) Portrays sexually explicit materials, which are defined as materials that show frontal nudity including personal photographs, drawings, and magazines and pictorials that show frontal nudity.

(2) Portrays, displays, describes, or represents penetration of the vagina or anus, or contact between the mouth and genitals.

(3) Portrays, displays, describes, or represents bestiality, sadomasochism, or an excretory function, including urination, defecation, or semen.

(4) Portrays, displays, describes, or represents the nudity of a minor, or person who appears to be under 18 years old.

(5) Portrays, displays, describes, or represents conduct that appears to be non-consensual behavior.

(6) Portrays, displays, describes, or represents conduct that appears to be forceful, threatening, or violent.

(7) Portrays, displays, describes, or represents sexual conduct where one of the participants is a minor, or appears to be under 18 years old.

(e) If the receiver of any mail, confidential or nonconfidential, directs a written complaint to administrative staff of the department or to facility ~~institution~~ officials, due consideration will be given to any reasonable remedy sought by the individual. This may include discussion of the complaint with the inmate in an attempt to resolve the matter₁; reading of all mail, including confidential mail, addressed to the individual₁; and, either disallowing only that which appears to perpetuate the problem₁ or disallowing all mail to the individual. Complaints and requests for actions which would, if approved, restrict an inmate's correspondence, and any action taken in response to such complaints or requests₁ will be fully documented on a CDC Form 128B (Rev. 4-74). The inmate shall receive a copy of the documentation and the original shall be placed in the inmate's C-file. ~~in the inmate's case file. An exception to the prohibition contained in Section 3147(a)(8) against placing copies of an inmate's personal correspondence in the inmate's case file may be made under the circumstances described in this subsection.~~

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601, 5054, Penal Code; and *Procunier v. Martinez*, 416 U.S. 396.

Section 3136 is amended to read:

3136. Disapproval of Inmate Mail.

~~(a) Staff shall not permit an inmate to send or receive mail which, in their judgment, has any of the characteristics listed in section 3006(c).~~ Disapproval of inmate mail that is in clear violation of CCR sections 3006 or 3135 shall be referred to staff not below the level of Correctional/Facility Captain for determination and appropriate action. Disapproval of inmate mail that is not in clear violation of CCR sections 3006 or 3135

shall be referred to the Warden, but not lower than the Chief Deputy Warden, for determination and appropriate action. When incoming or outgoing mail/packages/publications addressed to or being sent by an inmate are withheld or disallowed, the inmate shall be informed via CDC Form 1819, Notification of Disapproval-Mail/Packages/Publications (Rev.-6/98) of the reason, disposition, name of official disallowing the mail/package/publication, and the name of the official to whom an appeal can be directed

~~(b) Such mail shall be referred to a staff member not below the level of facility captain. Disapproved outgoing mail shall be processed in accordance with subsection 3147(a)(6). Disapproved incoming mail shall be disposed of in the manner set forth in subsection 3147(a)(5)(B).~~

When inmate mail is disapproved based on the criteria established in this section, a copy of the CDC Form 1819 and the supporting document(s) shall be retained by each facility for a minimum of seven years. **NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 2601(d), Penal Code.**

Section 3137 is amended to read:

3137. Appeals Relating to Mail and Correspondences.

(a) Inmates, their correspondents, and publishers may appeal departmental rules, regulations, policies, approved facility procedures and their application relating to mail and correspondence.

(b) Inmates shall use the established inmate appeal procedures as provided in section 3084.1, et seq. An inmate's submittal of an appeal within 15 days of a notice that mail is being designated as undelivered will postpone any disposition of the mail until an appeal

decision is made at the ~~second~~ third level of appeal review. If the inmate's appeal is denied at the ~~second~~ third level of appeal review, the item of mail shall be disposed of as provided in subsection ~~3147(a)(5)(B)~~ 91(c).

(c) Persons other than inmates should address any appeal relating to department policy and regulations to the Director of the Division of Adult Institutions (DAI) ~~Director~~. Appeals relating to a specific facility procedures ~~and or~~ practices should be addressed in writing to the Warden, ~~superintendent or regional administrator~~ or Associate Director of the facility where the appeal issue arises. ~~The warden, superintendent or regional parole administrator shall provide a~~ A written response shall be provided within 15 working days. Appeals that are not satisfactorily resolved at this level may be forwarded in writing to the ~~director~~ Director of the DAI who shall provide a written response within 20 working days.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600, 2601, Penal Code; *In re Muszalski*, 52 Cal App 3rd 500.

Existing Section 3138 has been relocated and renumbered to Section 3134, and amended in its entirety.

New Section 3138 has been relocated from existing section 3134, and is renumbered and amended in its entirety:

31348. Indigent Inmates General Mail Regulations.

~~Writing paper, envelopes, and the minimum postage required for first class domestic mail for up to five one ounce letters per week shall be supplied to an indigent inmate as defined in section 3000, upon the inmate's request. An indigent inmate shall have free and unlimited postage for the mailing of claims to the Board of Control and for the filing~~

~~of legal documents to any court as described in section 3165. Foreign mail requiring postage in excess of the minimum required for first class domestic mail will be limited to two of the five one ounce letters. A charge will not be placed against future deposits to the inmate's trust account to recover the costs of materials and postage provided while the inmate was without funds.~~

(a) Upon an indigent inmate's request, writing paper, envelopes, a writing implement, and the postage required for five 1-ounce First-Class letters per week shall be supplied. Inmates are not allowed to trade, transfer, or swap indigent inmate supplies with another inmate.

(b) Except as provided in subsection 3138(h) for mail to the courts or to the Attorney General, indigent inmates may request to mail any type of correspondence that weighs more than one ounce. Indigent inmates must relinquish the appropriate number of indigent envelopes to either their assigned Correctional Counselor or housing unit staff with the item to be mailed. If the item to be mailed weighs more than five ounces, the indigent inmate must relinquish all five indigent envelopes. Staff must forward the indigent envelopes with the item to be mailed to the mailroom with the notation that it is to be mailed for the indigent inmate. In order to facilitate this mailing, if requested, staff shall provide the indigent inmate with one appropriately sized envelope.

(c) Foreign mail requiring postage in excess of the minimum required for First-Class Mail shall be limited to two of the five letters.

(d) Indigent envelopes issued to an inmate become their property. The inmate shall be allowed to utilize the envelopes regardless of current financial status. A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of

materials and postage provided, while the inmate was indigent as defined in subsection 3133(a)(5).

(e) All inmate requests for indigent envelopes shall be authorized by the Institutional Inmate Trust Account Office.

(f) Any inmate attempting to use a State issued envelope intended for another inmate who is indigent shall receive progressive discipline pursuant to CCR section 3312.

(g) Indigent inmates desiring to correspond with their attorney or any other confidential correspondent shall be required to utilize their weekly allotment of indigent supplies to send such correspondence.

(h) In addition to indigent writing supplies and postage for the five (5) one (1) ounce letters per week, indigent inmates shall have free and unlimited mail to any court or the Attorney General's Office.

(1) Upon request, institutions shall also provide indigent inmates free copying of the legal documents limited to the number of copies of a document required by the court, plus one copy for the opposing party and one copy for the inmate's records

(2) If the case is accepted by the court, the need for future copies of legal documents and necessary postage will be evaluated on a case-by-case basis.

(3) A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of materials, copying and postage provided, while the inmate was indigent.

(i) Each institution shall establish local procedures for the issuance of writing supplies to indigent inmates.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601, 4570, Penal Code; *Procunier v. Martinez*, 416 U.S. 396; and *Bell v. Wolffish*, 99 S. Ct. 1861.

Section 3139 is amended to read:

3139. Correspondence Between Inmates, Parolees, and Probationers.

~~Inmates of separate correctional facilities may correspond with each other providing prior approval of the institution head of the correctional facility where the inmates are confined has been obtained. The authority to approve or deny such correspondence may not be delegated below the staff level of correctional or facility captain.~~

~~(a) The approval to correspond will remain in effect even though one or both of the inmates is transferred to another facility of the department. This approval to correspond may be forfeited due to disciplinary violations involving correspondence between the inmates or as a result of a classification action based upon the security needs at either inmate's new location. Any such restriction or revocation of approval will be communicated to both inmates and to the administrators of the facilities where the inmates are housed.~~

Inmates shall obtain written authorization from the Warden/Regional Parole Administrator or their designee/assigned probation officer, person in charge of the County Jail and/or other State Correctional Systems, at a level not less than Correctional Captain/Facility Captain or Parole Agent III, to correspond with any of the following:

(1) Inmates under the jurisdiction of any county, state or federal, juvenile or adult correctional agency.

(2) Persons committed to any county, state or federal program as a civil addict.

(3) Persons on parole or civil addict outpatient status under the jurisdiction of any county, state or federal, juvenile or adult correctional agency.

(4) Persons on probation.

~~(b) Any exchange of written or printed material between inmates of separated or segregated sections of the same facility will require the prior approval of the institution head. The authority for approving or denying such exchange of written and printed material may not be delegated below the staff level of correctional or facility captain.~~

Inmates may initiate requests to correspond with the above by contacting their Correctional Counselor I (CCI). Parolees may initiate request by contacting their Parole Agent (PA).

Inmates may be allowed to correspond with the persons described in subsections 3139(a)(1) through (4) provided those persons meet the criteria of approval of no known gang affiliation, or involvement with a known terrorist group or racketeering enterprise.

(c) The CCI/PA shall interview the inmate/parolee and/or review their C-file/Field File to obtain the information required to process an inmate's Request for Correspondence Approval, CDC Form 1074 (Rev. 08/87). If an inmate's request to correspond with another inmate/parolee is denied, the CCI/PA shall advise the inmate in writing.

(1) When reviewing the initiating inmates C-file, staff shall ascertain whether prior approval exists. If prior approval exists, a copy of the previously approved CDC Form 1074 shall be forwarded to both institutional mailrooms.

(2) When an initiating inmate's request to correspond with another inmate meets the criteria for approval per section 3139(b), and no prior approval exists, the CCI/PAI shall ensure that a CDC Form 1074 is completed.

(3) If the request is approved, staff shall retain the fifth page in the C-File/Field/File at the requesting institution/parole office. The remaining four pages shall be forwarded, intact, to the institution/parole office/probation office/other county, state or federal facility where the other requested correspondent is housed. Neither a photocopy of the CDC Form 1074, nor the fifth page, shall be forwarded to the C-File or mailroom while the correspondence approval is pending.

(4) If the request to correspond is denied at the institution/parole office/probation office/other state correctional facility, the reason for denial shall be annotated on the CDC Form 1074, and it shall be returned, in its entirety, to the sending institution/ parole office.

(5) Copies/photocopies shall not be delivered to the requested inmate, the receiving institutions mailroom, or the housing unit.

(6) Upon receipt of the disapproved CDC 1074, staff at the sending institution/field office shall ensure that the 2nd page is returned to the initiating inmate.

(7) If correspondence is approved at the institution/parole office, staff shall ensure that the CDC Form 1074 is completed. They shall retain the third and fourth pages for distribution. If the third page and fourth pages are not legible, the CCI/PAI shall make photocopies of the first page prior to forwarding the completed CDC Form 1074 to the sending institution. The approved CDC Form 1074 will be distributed as directed on the form.

(8) Photocopies of the CDC Form 1074 shall not be made for the housing unit(s). The housing units shall not keep records of approved correspondents.

(9) The mailroom supervisor shall establish and maintain a record of approved CDC Form 1074s.

(10) When a CDCR inmate requests to correspond with an inmate in a county, state, or federal facility, or if the request is from a county, state, or federal inmate, the CCI shall ensure that a CDC Form 1074 is completed along with a cover letter that thoroughly explains the need for the CDC Form 1074. If the request is denied, the CCI shall ensure that a letter is forwarded to the requesting agency thoroughly explaining the denial.

(d) There shall be no limits set on the number of times approved inmates/parolees/probationers can correspond with one another unless revoked. The approval to correspond may be revoked due to disciplinary violations involving correspondence between the inmates/parolees or as a result of a classification action based on safety and security. Any such restriction, or revocation of approval, shall be communicated to inmate(s)/parolee(s) and to the warden(s)/parole administrator(s) of the institution/facility where the inmate(s)/parolee(s) are housed.

(e) Wardens at institutions where there are segregated housing units such as, but not limited to, Security Housing Units (SHU), Administrative Segregation Units (ASU), and Psychiatric Services Units (PSU), shall outline in their local procedure any further restrictions on correspondence due to safety and security concerns, limited to those specific housing units.

(f) The most restrictive a facility can be with respect to inmate mail privileges is to limit correspondence between inmates to only the following:

(1) Immediate Family Members as defined in section 3000.

(2) Co-litigants on active cases, until the case is resolved.

(3) Incarcerated natural parent of the inmate's child.

A facility may not restrict mail privileges between an inmate and any of the above three types of correspondents, unless the inmate or the correspondent violates section 3006 or other CCR section.

(g) Approval to correspond shall remain in effect upon transfer to another departmental facility or another parole office.

(h) If an inmate's transfer is based on case factors that create security concerns, such as, but not limited to, placement in SHU, ASU, or PSU, a reexamination by committee of all approved correspondence shall be conducted. The CCI shall review and recommend to committee whether to continue approval of the correspondence.

(i) If an institution/parole office receives mail from an unapproved inmate/parolee correspondent, staff shall mark the envelope with "Not an Approved Correspondent" or equivalent language and return it to the sender.

New subsection 3139(j) is relocated from existing section 3140 and is adopted to read:

(j) Inmates confined in departmental facilities may correspond with former inmates. Prior approval of the warden, superintendent, or person in charge of the correctional facility is required if the person was discharged from a facility within the past twelve months.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2601, 4570, Penal Code; *Procunier v. Martinez*, 416 U.S. 396; and *Bell v. Wolffish*, 99 S. Ct. 1861.

Section 3140 is deleted, and the material contained therein amended and relocated to newly created subsection 3139(j).

Section 3140 has been renamed and amended to read:

Section 3140. Funds Enclosed in Correspondence ~~Former Inmates.~~

~~Inmates confined in departmental facilities may correspond with former inmates. Prior approval of the warden, superintendent, or person in charge of the correctional facility is required if the person was discharged from a correctional facility within the past twelve months. Prior approval of the warden, superintendent, or person in charge of the facility and approval of the person's case supervisor is required if the person is currently under parole, probation or outpatient supervision.~~

(a) Funds may be mailed to an inmate in the form of a money order, certified check, personal check, or any other negotiable means except cash and Travelers Checks.

(1) The check or money order shall be made payable to the California Department of Corrections and Rehabilitation with the inmate's last name and departmental identification number. This information shall be on the face of the check or money order.

(2) Funds from other inmates/parolees shall be only accepted from approved correspondents, pursuant to section 3139, who are members of the same family, or the parent of the inmate's child(ren).

(3) Funds received in the mail shall be removed from the envelope by mailroom staff, and the envelope shall be imprinted with a stamp that reads "Funds Enclosed." The date, amount, and initials of the person processing the funds shall be recorded on the envelope before it is forwarded to the inmate. The stamped envelope is the inmate's receipt for the funds.

(4) Cash received in incoming mail will be returned to the sender. Mailroom staff shall notify the inmate in writing informing them that cash was received and will be returned to sender. The envelope containing the cash and two copies of the memo will be forwarded to the Inmate Trust Office to be returned to the sender.

(5) Mailroom staff shall arrange the day's remittances in numerical order. The remittances shall be listed in sequence on the report of collections. This report shall include each inmate's name, departmental identification number, type of payment amount and the total received.

(b) Generally, inmates are not eligible to receive Supplemental Security Income (SSI) checks from the Social Security Administration, Veteran Affairs Benefits, or Welfare checks from the California Department of Social Services/County Welfare agencies. Depending upon eligibility, inmates may be allowed to receive tax refund checks.

(1) A facility representative shall be appointed by the Associate Warden, Business Services, to assist outside agencies in determining an inmate's eligibility.

(2) Mailroom staff shall deliver all received SSI, Veteran Affairs Benefits, and/or welfare and/or tax refund checks to the Inmate Trust Office. The Accounting Officer shall notify the facility representative that checks are being held pending determination of eligibility

of the inmates to receive the checks. The facility representative shall notify the appropriate agency.

(3) Unauthorized checks shall be returned to the appropriate agency.

(c) When a U.S. Government check is received for an inmate who is deceased or discharged from CDCR, the check and envelope shall be returned to the sending agency with the necessary information shown as to the inmate being deceased or discharged.

(1) If an inmate has been transferred to another facility, the check shall be forwarded including a note requesting the inmate to notify the state or federal agency of their change of address.

(2) Mail received for inmates who have been paroled shall be forwarded to the office of the parole region to which the inmate was released, or if unable to locate the parolee, the check should be returned to the originating state or federal agency.

(d) Funds not in the form of money orders or certified checks shall not be released for spending by the inmate until the funds have cleared the bank upon which they were drawn. When personal checks are received, the face of the envelope in which the check was received shall be imprinted with a stamp that reads that the personal check has been accepted at this time.

(e) No foreign currency shall be accepted. If foreign currency is received, the entire envelope and its contents shall be returned to sender with a pre-printed notice to the sender which states it is unauthorized.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 2601, Penal Code.

Section 3141 is amended to read:

Section 3141. Confidential Correspondence.

~~(a) Inmates and persons confined in departmental facilities may correspond confidentially with the persons or the staff members of the persons listed in subsection (c) of this section. Confidential correspondence means that the correspondence shall not be read by any employee except as prescribed in Section 3142.~~

~~(a)~~ Confidential correspondence is a right guaranteed by law. Using the means of confidential correspondence for personal non-business correspondence, the transmission of contraband items, or the smuggling of letters and other communications to be forwarded to persons not listed in subsection (c) is an abuse of this right and such proven abuse may be subject to disciplinary action as described in Sections 3314 and 3315.

(b) Confidential mail will not be limited to First Class mail standards. Mail received from confidential correspondents will be processed regardless of weight or postage class.

(c) Persons and ~~staff members~~ employees of persons with whom inmates may correspond confidentially and from whom inmates may receive confidential correspondence include:

(1) All state and federal elected officials.

(2) All state and federal officials appointed by the governor or the President of the United States.

(3) All city, county, state and federal officials having responsibility for the inmate's present, prior or anticipated custody, parole or probation supervision.

(4) County agencies regarding child custody proceedings, as clearly identified in the communication and listed on the envelope.

(5) All state and federal judges and courts.

(6) An attorney at law, on active status or otherwise eligible to practice law, listed with a state bar association.

(7) All officials of a foreign consulate.

(87) The Secretary, Undersecretary, Chief Deputy Secretaries, Executive Ddirector, Assistant Secretaries, Division chief deputy Ddirectors, Ddeputy Ddirectors, Associate assistant Ddirectors, executive assistant to the director, the Cehief, inmate Aappeals, and the Lead Ombudsman's Office of the Department of Corrections.

(98) A legitimate legal service organizations that consists of an established group of attorneys involved in the representation of offenders in judicial proceedings including, but not limited to:

(A) The American Civil Liberties Union.

(B) The Prison Law Office.

(C) The Young Lawyers Section of the American Bar Association.

(D) The National Association of Criminal Defense Lawyers.

(E) California Appellate Project.

~~including, but not limited to: the American Civil Liberties Union, the Prison Law Office, the Young Lawyers section of the American Bar Association, and the National Association of Criminal Defense Lawyers.~~

(d) All incoming confidential mail from an attorney or legal service organization shall include the attorney's name, title, and return address of their office. Institution mailroom

staff shall contact the CDCR Office of Legal Affairs Division at Headquarters if there is any question regarding the legitimacy of a legal service organization.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 5054, Penal Code; *In re Jordan*, 12 CA 3rd 575 (1974); and *King v. Borg*, USDC-ED Case No. CIV. S-87-0519 LKK/PAN/P.

Section 3142 is amended to read:

3142. Processing of Outgoing Confidential Mail.

In order to be accepted and processed as confidential correspondence, an inmate's letter shall ~~must~~ comply with ~~all of~~ the following requirements:

(a) The letter must be addressed to a person or to the office of a person listed in Section 3141. The address of an attorney must match the address listed with the State Bar.

(b) The inmate's full name, department identification number, and the address of the facility shall ~~must~~ be included in the return address appearing on the outside of the envelope.

(c) The word "confidential" shall ~~must~~ appear on the face of the envelope. Failure to do this will result in the letter being processed as regular mail or being returned to the inmate if for any reason the mail cannot be processed as regular mail.

(d) ~~Approved facility mail procedures may require either of the following procedures:~~

~~(1) The envelope must be sealed by the inmate before it is turned over to a staff member for mailing; or,~~

~~(2) The envelope must be sealed by the inmate in the presence of a designated staff member before it is accepted for mailing.~~

~~(3) Either procedure may be applied to the outgoing confidential mail of all inmates of a facility; only designated classifications of inmates within a facility; to all of an individual inmate's mail; or only to correspondence between an inmate and a specific correspondent.~~

~~(4) The procedure to apply at each facility will be stated in the facility's mail procedures and such procedures shall be conspicuously displayed at appropriate locations throughout the facility. Improperly sealed or unsealed letters bearing a confidential notice will be returned to the inmate.~~

Inmates shall post confidential mail by presenting the mail unsealed to designated staff. In the presence of the inmate, the staff shall remove the contents of the envelope upside down to prevent reading of the contents. Staff shall remove the pages and shake them to ensure there is no prohibited material, consistent with these regulations. If no prohibited material is discovered, the contents shall be returned to the envelope and sealed. Staff shall place their signature, badge number and date across the sealed area on the back of the envelope. Staff shall then deposit the confidential mail in the appropriate depository.

(e) If prohibited material is found in the confidential mail, the prohibited material shall be confiscated; however, the letter may be returned to the inmate or mailed following the process outlined above. If the prohibited material indicates a violation of the law or intent to violate the law, the matter may be referred to the appropriate authorities for possible prosecution. Administrative and/or disciplinary action shall also be taken against all parties involved.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 2601, Penal Code.

Section 3143 is amended to read:

3143. Processing Incoming Confidential Mail.

Incoming letters must show bearing the name, or title, and a return address of persons and the office of persons listed in Section 3141 on the outside of the envelope to will be processed as confidential correspondence. An attorney's return address must match the address listed with the State Bar. This includes franked mail from governmental officials listed in Section 3141. A notice or request for confidentiality is not required on the envelope. Correspondence that is appropriately addressed with a return address that indicates it may be confidential shall be processed and treated as confidential correspondence whether or not it is stamped as such. ~~Such incoming confidential mail will not be read by any staff member before or at the time the letter is delivered to the inmate, except as described in Sections 3138 and 3144(a). Incoming correspondence bearing only a department or agency return address without any reference to the name or title of the officials or persons listed in Section 3141 will be processed by designated employees as nonconfidential correspondence.~~

(a) Designated staff shall open the letter in the presence of the addressed inmate at a designated time and place. Staff shall not read any of the enclosed material. Staff shall remove the pages and shake them to ensure the absence of prohibited material.

(b) Inmates shall sign for all confidential mail at the time of delivery. This shall be accomplished by use of a permanent logbook or use of receipts. If receipts are used, the receipts shall be forwarded to the mailroom for filing. The log book at a minimum

must record the date of delivery, the inmates name and departmental identification number, and the senders name and address.

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 2601, Penal Code.

Section 3144 is amended to read:

3144. Inspection of Confidential Mail.

~~To determine the possible presence of contraband all incoming confidential mail will be inspected prior to delivery to an inmate. Confidential mail will be opened and inspected for contraband only and only in the presence of the inmate addressee. Inspecting correctional officials will not read any of the contents of the confidential mail. Outgoing~~
Confidential mail may be further inspected ~~with or without opening the mail~~, for cause only.

(a) Cause may include, but is not limited to, the reasonable belief by correctional officials that the letter is not addressed to or is not from an official or office listed in Section 3141 or when other means of inspection indicates the presence of physical contraband in the envelope. In such instances the mail will be opened in the presence of the inmate for determination.

(b) Administrative action may be taken to restrict, for cause, the confidential mail privileges afforded to an attorney pursuant to this Article

(1) A first offense of a non-serious mail rule violation of the department's mail regulations shall result in a written warning or up to a six-month suspension of the attorney's confidential mail privileges. A non-serious mail violation means a violation of the inmate regulations that is not chargeable as a felony but is nevertheless unlawful,

such as an enclosure of contraband into the confidential mail, or a misrepresentation of the sender or addressee's identity.

(2) A second offense of a non-serious mail rule violation shall result in modification/suspension of confidential mail privileges for a period of up to twelve months.

(3) A third offense of a similar nature and/or a first offense that could be charged as a felony that jeopardizes the safety of persons, or the security of the facility, shall result in confidential mail privileges being suspended from one year up to an indefinite period of time.

(4) The attorney must petition the Warden or Director of the Division of Adult Services (DAI) for reinstatement of confidential mail privileges.

The confidential mail privilege may be a statewide suspension for any offense that could be prosecuted as a felony. Only the Director of the DAI or designee shall issue a statewide suspension of confidential mail privileges.

(c) Upon determining that the envelope contains prohibited material or that there is a misrepresentation of the sender's or the addressee's identity the letter and any enclosures may be examined and read in its entirety to determine the most appropriate of the following actions:

(1) When the prohibited material or misrepresentation of identity indicates a violation of the law or an intent to violate the law, the matter will be referred to the appropriate criminal authorities for possible prosecution. Any case referred to criminal authorities will be reported to the Director of the DAI ~~director~~. When a case is referred to criminal authorities and the determination is made not to prosecute, the fact of the referral and

the determination made will be reported to the inmate and to the inmate's correspondent. The Director of the DAI ~~director~~ will be informed of the outcome of all referrals to criminal authorities.

(2) When an inmate's action or complicity indicates a violation of law; the regulations set forth in this article; or approved facility mail procedures; the matter may also be handled by appropriate disciplinary action.

NOTE: Authority cited: section 5058, Penal Code. Reference: section 2601, Penal Code; and *Wolff v. McDonald*, 94 S. Ct. 2963 (1974).

Section 3145 is amended to read:

3145. Enclosures in Confidential Mail

When the inspection of confidential correspondence discloses written or printed enclosures, the enclosures will be treated in the same manner as confidential correspondence. The inmate will not be given the enclosures or be allowed access to the enclosures except as authorized in the following subsections:

(a) The inmate may consent to an immediate examination of the enclosure by a staff ~~member of the facility~~ who issues mail. Such examination will be limited to the extent necessary to determine if the enclosure may be safely admitted into the facility under the standards of Penal Code Section 2601. The conclusion of the examiner will be written on the enclosure, and be dated and signed by the examiner. If the enclosure can be safely admitted into the facility, it will be given to the inmate. If in the examiner's opinion the enclosure does not meet the standards of Penal Code Section 2601 and cannot be safely admitted into the facility, it will be referred to a ~~facility staff member~~ at not less than the Correctional/Facility Captain level, for final determination. If not

released to the inmate at this level, the inmate will be allowed access to the enclosure only as authorized in subsection (b).

(b) The inmate may decline to consent to examination of enclosures in confidential mail by any staff member. When this occurs, the enclosure will be immediately placed in a separate envelope and the envelope will be sealed in the presence of the inmate. The separate outside of the envelope will, at the inmate's choosing, be returned to the sender with the mailing cost charged to the inmate's trust account, or disposed of pursuant to section 3191(c). The inmate is entitled to keep the letter or correspondence and the envelope it came in. ~~be annotated with the inmate's name and number, a notice that the content consists of unexamined confidential enclosures removed from confidential correspondence; the date correspondence was received; and the name and address of the sender. The envelope will then be placed in the inmate's unissued personal property or will be stored in another place designated by the facility. The inmate will be allowed the maximum possible access to that material for review and examination in a place or manner which will prevent the material from being read by other inmates and staff.~~

(c) Any person who examines the content of mail under the authority of this article ~~section~~, or in connection with an appeal by an inmate, of a ruling under this article, ~~section~~ must keep the content of the material which was examined in strict confidence. No original, copy, excerpt, or summary of personal correspondence to or from an inmate shall be made or be placed in an inmate's C-file unless such correspondence is or has been the subject of:

(1) Legal, disciplinary, criminal investigation, or casework determination and actions affecting the inmate.

(2) When the recipient of an inmate's disturbing or offensive mail corresponds with the facility and requests administrative action, subject to section 3135.

(3) If an inmate requests that a copy of personal correspondence be placed in their C-file and the inmate's caseworker deems it appropriate to do so based on the relationship of the correspondence to the inmates incarceration.

~~and make no reference to the contents in any documentation which may be entered in the inmate's case file.~~

NOTE: Authority cited: section 5058, Penal Code. Reference: Section 2600, Penal Code, and *In re Jordan*, 12 CA 3rd 575 (1974).

Section 3146 remains unchanged:

Section 3146. Mail in Languages Other Than English.

Mail may be subject to a delay for translation of its contents by staff. When such delay exceeds normal mail processing by five business days, the inmate shall be notified in writing of the delay, the reason for the delay,¹ and subsequent determinations and actions regarding that item of mail. If staff are unable to translate the letter and its contents within 20 business days of notice to the inmate, then the letter shall be delivered to the inmate untranslated.

NOTE: Authority cited: section 5058, Penal Code. Reference: Sections 2600 and 2601, Penal Code.

Existing Section 3147 is relocated and renumbered to Section 3133.